

PT 02-47

Tax Type: Property Tax

Issue: Religious Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS**

**CHERRY VALLEY UNITED
METHODIST CHURCH
APPLICANT**

v.

**ILLINOIS DEPARTMENT
OF REVENUE**

**No. 01-PT-0016
(00-101-0094)
P.I.N: 264A-012
(1612226003)**

RECOMMENDATION FOR DISPOSITION

APPEARANCES: Mr. Rodney O. Osborne of Ekroth & Osborne, Ltd. on behalf of the Cherry Valley United Methodist Church (the “Applicant”); Mr. George W. Foster, Special Assistant Attorney General, on behalf of the Illinois Department of Revenue (the “Department”).

SYNOPSIS: This matter presents the limited issue of whether real estate identified by Winnebago County Parcel Index Number 264A-012 (the “subject property”), was “used exclusively for religious purposes,” as required by Section 15-40 of the Property Tax Code (35 ILCS 200/1-1, *et seq.*) at any point during the 2000 assessment year. The underlying controversy arises as follows:

Applicant filed an Application for Property Tax Exemption with the Winnebago County Board of Review (the “Board”) on March 31, 2000. The Board reviewed this application and recommended to the Department that the entire subject property be exempt as of March 31, 2000. On December 12, 2000, the Department issued a

determination denying the requested exemption *in toto* on grounds that the subject property is not in exempt use.

Applicant filed an appeal to this denial and later presented evidence at a formal evidentiary hearing. Following a careful review of the record made at that hearing, I recommend that the Department's determination be modified in accordance with the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT:

1. The Department's jurisdiction over this matter and its position therein are established by Dept Group Ex. No. 1.
2. The Department's position in this matter is that the subject property is not in exempt use. *Id.*
3. Applicant, an affiliate of the Northern Illinois Annual Conference of the United Methodist Church (the "Conference"), obtained ownership of the subject property by means of a warranty deed dated October 5, 1999. Applicant Ex. No. 1.
4. The subject property is identified by Winnebago County Parcel Index Number 264A-012 and the following legal description:

Lot Twelve (12) as designated upon the Plat of Brown Subdivision of part of the southeast one quarter of Section 1-43-2 and part of the northeast one quarter of Section 12-43-2, the Plat of which subdivision is recorded in Book 27 of Plats on page 69 in the Recorder's Office of Winnebago County, Illinois.

Dept. Group Ex. Nos. 1, 2.

5. The subject property is improved with a one story residence. Dept. Group Ex. No. 1; Tr. p.

6. Applicant and the Conference specifically required that applicant's pastor, Nancy L. Weingartner, live in the parsonage as a condition of her employment. Applicant Ex. No. 3; Tr. pp. 20, 23-24, 26-27.
7. Pastor Weingartner moved into the parsonage on March 15, 2000 and resided there throughout the remainder of the 2000 assessment year. Tr. p. 27.

CONCLUSIONS OF LAW:

Article IX, Section 6 of the Illinois Constitution of 1970 provides as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

Pursuant to Constitutional authority, the General Assembly enacted Section 15-40 of the Property Tax Code, 35 **ILCS** 200/1-1 *et seq.* (hereinafter the "Code"), wherein the following are exempted from real estate taxation:

All property used exclusively for religious purposes, or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise use with a view to a profit, is exempt, including all such property owned by churches or religious institutions or denominations and use in conjunction therewith as housing facilities provided for ministers ... performing the duties of the vocation as ministers at such churches or religious institutions or for such religious denominations... [.]

35 **ILCS** 200/15-40.

Statutes conferring property tax exemptions are to be strictly construed so that all factual and legal inferences favor of taxation. People ex rel. Nordland v. Home for the Aged, 40 Ill.2d 91 (1968); Gas Research Institute v. Department of Revenue, 154 Ill. App.3d 430 (1st Dist. 1987). Consequently, any doubts or debatable questions as to

whether property falls within a given statutory exemption provision must be resolved in favor of taxation. *Id.*

In this case, the relevant statute requires that the property in question be “used exclusively for religious purposes.” 35 ILCS 200/15-40. The word “exclusively” when used in Section 200/15-40 and other property tax exemption statutes means the “the primary purpose for which property is used and not any secondary or incidental purpose.” Pontiac Lodge No. 294, A.F. and A.M. v. Department of Revenue, 243 Ill. App.3d 186 (4th Dist. 1993). As applied to the uses of property, a religious purpose means “a use of such property by a religious society or persons as a stated place for public worship, Sunday schools and religious instruction.” People ex rel. McCullough v. Deutsche Evangelisch Lutherisch Jehova Gemeinde Ungeanderter Augsburgischer Confession, 249 Ill. 132, 136-137 (1911).

The specific “religious purpose” at issue herein is that of a parsonage. The statutory requirements for the exemption of a parsonage are that that the property must be: (a) owned by a duly qualified religious institution; and, (b) used as a housing facility for clergy employed by that religious institution; and, (c) occupied by clergy who must reside in the facility as a condition of employment. 35 ILCS 200/15-40; McKenzie v. Johnson, 98 Ill.2d 87 (1983). Only the last requirement is at issue herein, as the Department’s denial was based strictly on lack of exempt use. Dept. Ex. Group Ex. No. 1.

The testimony of applicant’s pastor, Nancy L. Weingartner, together with the documentation establishing the Conference’s residency requirements (Tr. pp. 26-27; Applicant Ex. No. 3), proves that the subject property was in fact used for the very narrow set of residential purposes set forth in Section 15-40 as of March 15, 2000. Consequently, it appears that the instant denial was predicated on a lack of information that applicant cured at hearing. This

being the case, the Department's determination in this matter should be modified to reflect that the subject property should be exempt from real estate taxation for that 80% of the 2000 assessment year which occurred between the date Pastor Weingartner assumed residency in applicant's parsonage, March 15, 2000, and the last day of the 2000 assessment year, December 31, 2000.¹

WHEREFORE, for all the aforementioned reasons, it is my recommendation that the of real estate identified by Winnebago County Parcel Index Number 264A-012 (1612226003) be exempt from real estate taxes for 80% of the 2000 assessment year under 35 ILCS 200/15-40.

June 21, 2002

Date

Alan I. Marcus
Administrative Law Judge

¹. Section 1-155 of the Property Tax Code defines the term "year," for Property Tax purposes as meaning a calendar year. 35 ILCS 200/1-155.